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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,431	12/08/2003	James J. Miller	Miller-001:CIP	2329

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THE MATTHEWS FIRM  
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HOUSTON, TX 77027-3224

EXAMINER
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ROWAN, KURT C

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/730,431

Applicant(s)

MILLER ET AL.

Examiner

Kurt Rowan

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*ML*

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-9, 11, 15, 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Danielson.

The patent to Danielson shows a fishing hook, in reference to claims 1 and 17, having a first shank and a second shank 2, with a tensioner 9 disposed between the first and second shanks. Danielson shows a catch 6 integral to the first shank. Danielson shows the first and second shanks having first and second states such as in Fig. 1 for the first state where the shanks are parallel and a second state such where the first and second shanks cross after the hook is released as discussed below in reference to claim 15.

Danielson shows in the first state the first and second shank depend downwardly from the tensioner as shown in Fig. 3. Danielson shows the distal end of the first shank partially obscured by the second shank as shown in Fig. 1. Further, in reference to claim 17, Danielson shows upon the application of two generally opposing forces such as a fish biting the lure from the top and the bottom and consequently the hook, that the hook will be pulled forward by the force on the line as a fisherperson feels the bite which will release the hooks from the lure as shown in Fig. 2. In reference to claim 2, Danielson shows the in the first state that the distal ends of the first and second shanks

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are positioned in opposite directions as shown in Fig. 2. In reference to claims 3-6 and 18-19, Danielson shows first and second shanks having hooks 10 with barbs the distal ends. In reference to claims 7-9, Danielson shows the tensioner 9 being a coil spring that comprises one or more coils of wire. In reference to claim 11, Danielson shows an eyelet 9 disposed about and intermediate the first and second shanks. In reference to claim 15, Danielson shows the fish hook having three states, the first state having the first and second shanks in parallel planes as shown in Fig. 2, the third state with the first and second shanks crossed twice ( such as the cross right behind the coil spring and the cross at the rear near the hooks at pin 7) as shown in Fig. 1, and the second state with the shanks crossed once which occurs when the hook is released and is moving to the first state that a point will be reached when the shanks cross only once.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 10, 12-14, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Danielson.

The patent to Danielson shows a fish hook as discussed above. In reference to claim 10, Danielson does not show a prong along the each of the first and second shanks, but it would have been obvious to employ old and well known prongs to the first and second shanks to further hook the fish. The examiner takes Official Notice that prongs along

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the shanks are old and well known in the art. In reference to claims 12, 13, 14, Danielson does not disclose what the fish hook is made from, but it would have been obvious to make it from a metal such as steel or a composite since the selection of a known material is based on its suitability for the intended use. See *In re Leshin*, 125 USPQ 416. In reference to claim 16, Danielson shows the third state with the hooks in the set position, but it would have been obvious to employ a two shank crossing in the release position, if desired, since the function is the same and no stated problem is solved.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Schaefer, Schwartz, Garner, Titus, and Parson show other trap hooks.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Rowan whose telephone number is 703 308-2321. The examiner can normally be reached on Monday-Thursday 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kurt Rowan  
Primary Examiner  
Art Unit 3643

KR